

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 1710 - HB 1749

February 27, 2018

SUMMARY OF BILL: Enacts the Medical Cannabis Act (the Act), which legalizes and decriminalizes the possession, consumption, cultivation, processing, purchase, transportation and sale of medical cannabis and every compound, manufacture, salt, derivative, mixture, or preparation of the plant to any qualifying patient who has been assessed by a medical care practitioner as having a debilitating medical condition and has successfully applied for a medical registry identification card.

Defines “medical cannabis establishment” (MCE), “cultivation facility,” “testing facility,” “dispensary,” “allowable amount,” “authorized form of cannabis,” “bona fide practitioner-patient relationship,” “cannabis,” “cannabis product,” “cardholder,” “commission,” “community facility,” “debilitating medical condition,” “designated caregiver,” “disqualifying felony offense,” “enclosed, locked facility,” “establishment agent,” “establishment agent registration card,” “healthcare facility,” “license,” “medical use,” “nonresident card,” “nonresident cardholder,” “practitioner,” “processing facility,” “qualified pharmacist,” “qualifying patient,” “registry identification card,” “THC,” “wholesaler,” and “written certification.”

Establishes that the term “marijuana” does not include oil containing the substance cannabidiol, with less than 0.9 percent of tetrahydrocannabinol.

Creates the Medical Cannabis Commission (the Commission). The Commission shall have nine members. The Commissioner of the Department of Health is required to call the first meeting of the Commission. Members of the Commission shall receive \$6,000 per year, paid in monthly installments, and shall be reimbursed for their actual and necessary expenses, including travel expenses. Requires the Commission to appoint a director and authorizes the Commission to employ an assistant director, a chief law enforcement officer, and is further authorized, upon consent of the governor, to employ attorneys, inspectors, agents, officers, and clerical assistance as may be necessary. Establishes that the director, assistant director, and chief law enforcement shall be reimbursed for travel expenses.

Requires the Commission to: create, receive, review and approve applications for medical cannabis establishments (MCEs); establish a schedule of fees for application, and initial and renewal licenses for all medical cannabis establishments (MCE), including wholesalers, MCE agents, including volunteers, and qualified pharmacists, such that the fees in aggregate shall not exceed all costs incurred by Commission in administering the state’s medical cannabis program by no more than 20 percent; creates a website that lists the states or jurisdiction which Tennessee grants reciprocity for nonresident registration cards. All fees authorized and collected pursuant to the Act shall be paid into the General Fund and credited to a separate account for the Commission. Establishes that it is the General Assembly’s intent that such fund shall be used

solely for implementation and enforcement of the Act; however, additional funds may be appropriated to the Commission during the first year of its operation to assist with initial expenses. Requires the Commission to strive to remain a ratio of at least one cultivation facility for every five dispensaries, to ensure that the number of each type of MCE is sufficient to adequately serve the needs of qualifying patients, and to consider the number of MCEs the Commission can effectively regulate in ensuring compliance with the Act. Once a year, the Commission must accept applications for licenses to operate MCEs and the Commission must publish on its website the dates such applications will be accepted.

Requires the Tennessee Bureau of Investigation (TBI) to conduct criminal history record checks using fingerprints provided by establishment agents at the time of application. If no disqualifying record is identified, TBI is then required to send the fingerprints to the Federal Bureau of Investigation (FBI) for a criminal history record check.

Establishes that sales of medical cannabis are subject to a 5 percent state sales tax and a 2 percent local sales tax. Establishes the following rates determining allocation of the 5 percent state sales tax revenue collections:

- 10 percent to the TBI;
- 5 percent to sheriffs' offices throughout the state to be used for drug training, including training related to the Act;
- 5 percent to police departments throughout the state to be used for drug training, including training related to the Act;
- 15 percent to the Department of Intellectual and Developmental Disabilities (DIDD);
- 20 percent to the Department of Mental Health and Substance Abuse Services (DMHSAS);
- 20 percent to the Department of Education (DOE) for kindergarten through grade twelve (K-12) education purposes;
- 15 percent to the account in the General Fund, pursuant to Tenn. Code Ann. § 16-22-109(e)(4) established for the exclusive use of the DMHSAS to assist existing veterans treatment court programs and to create and establish additional veterans treatment court programs; and
- 10 percent to the drug treatment court program resources fund to be administered by the DMHSAS, in accordance with Tenn. Code Ann. § 16-22-110, to support drug court treatment programs.

ESTIMATED FISCAL IMPACT:

Increase State Revenue - \$13,100/FY18-19/General Fund
\$1,820,500/FY19-20/General Fund
\$2,727,300/FY20-21/General Fund
\$3,628,300/FY21-22 and Subsequent Years/General Fund

\$217,000/FY18-19/Medical Cannabis Commission
\$281,900/FY19-20/Medical Cannabis Commission

**\$369,800/FY20-21/Medical Cannabis Commission
\$361,200/FY21-22/Medical Cannabis Commission
\$361,700/FY22-23 and Subsequent Years/
Medical Cannabis Commission**

**\$400/FY18-19/Department of State
\$200/FY19-20/Department of State
\$200/FY20-21/Department of State
Not Significant/FY21-22 and Subsequent Years/
Department of State**

**\$48,500/FY18-19/TBI
\$952,900/FY19-20/TBI
\$1,416,700/FY20-21/TBI
\$1,859,000/FY21-22/TBI
\$1,857,100/FY22-23 and Subsequent Years/TBI**

**\$1,391,600/FY19-20/Office of Criminal Justice Programs
\$2,087,400/FY20-21/Office of Criminal Justice Programs
\$2,783,100/FY21-22 and Subsequent Years/
Office of Criminal Justice Programs**

**\$927,700/FY19-20/Drug Court Treatment Programs
\$1,391,600/FY20-21/Drug Court Treatment Programs
\$1,855,400/FY21-22 and Subsequent Years/
Drug Court Treatment Programs**

**\$1,391,600/FY19-20/Department of Intellectual and
Developmental Disabilities
\$2,087,400/FY20-21/Department of Intellectual and
Developmental Disabilities
\$2,783,100/FY21-22 and Subsequent Years/
Department of Intellectual and
Developmental Disabilities**

**\$1,855,400/FY19-20/Department of Mental Health and
Substance Abuse Services
\$2,783,200/FY20-21/Department of Mental Health and
Substance Abuse Services
\$3,710,900/FY21-22 and Subsequent Years/
Department of Mental Health and
Substance Abuse Services**

**\$1,855,400/FY19-20/Department of Education
\$2,783,200/FY20-21/Department of Education
\$3,710,900/FY21-22 and Subsequent Years/**

Department of Education

**Increase State Expenditures - \$74,800/FY19-20/General Fund
\$72,000/FY20-21 and Subsequent Years/General Fund**

**\$168,000/FY18-19/Medical Cannabis Commission
\$335,900/FY19-20 and Subsequent Years/
Medical Cannabis Commission**

**\$74,200/FY18-19/Board of Pharmacy
\$129,900/FY19-20 and Subsequent Years/
Board of Pharmacy**

**\$30,700/FY18-19/TBI
\$15,900/FY19-20/TBI
\$15,900/FY20-21/TBI
\$2,300/FY21-22/TBI
\$1,000/FY22-23 and Subsequent Years/TBI**

Decrease State Expenditures - \$2,463,800 Incarceration*

**Increase Local Revenue - \$4,638,600/FY19-20
\$6,957,900/FY20-21
\$9,277,200/FY21-22 and Subsequent Years**

Other Fiscal Impact – The Board of Pharmacy is required to be self-supporting over any two-year period. The Board had an annual surplus of \$885,058 in FY15-16, an annual surplus of \$620,117 in FY16-17, and a cumulative reserve balance of \$2,601,038 on June 30, 2017.

Assumptions:

A) Licensing Revenue: (a) MCEs & (b) MCE Agents, MCE Volunteers, Wholesalers, and Qualified Pharmacists

(a) MCEs

- The Commission will begin accepting and processing applications to operate cannabis establishments on January 1, 2019. Sales of medical cannabis will begin on July 1, 2019.
- Pursuant to Tenn. Code Ann. § 68-7-105 of the Act, the Commission must strive to remain a ratio of at least one cultivation facility for every five dispensaries, to ensure that the number of each type of MCE is sufficient to adequately serve the needs of qualifying patients, and to consider the number of MCEs the Commission can effectively regulate in ensuring compliance with the Act.
- Pursuant to Tenn. Code Ann. § 68-7-108 of the Act, the Commission is required to establish a schedule of fees for initial and renewal fees for MCEs.

- The Commission is required to review the fee schedule every two years. Fee revenue in aggregate is prohibited from exceeding the Commission's cost in administering the state's medical cannabis program by more than 20 percent.
- One-time application fee of \$250 and initial and annual renewal fee of \$1,000.
- The numbers of market entrants in the first three years of operation are estimated as follows: 135 in FY18-19; 70 in FY19-20 for a total of 205 (135 + 70); 70 in FY20-21 for a total of 275 (135 + 70 + 70), and 10 in FY21-22 and subsequent years, for a total of 285 (135 + 70 + 70 + 10).
- In FY21-22 and in all subsequent fiscal years, the number of new market entrants is expected to level off significantly because the establishments that enter the market in the first three years are expected to capture the majority of the total market share. However, it is anticipated that some establishments will cease operations each year and there will be new market entrants to replace them. As a result, beginning in FY21-22, the average number of new market entrants is estimated to be 10, but the overall total is expected to remain constant at 285 market participants.
- It is assumed that prior to the first day of legal sales on July 1, 2019, cannabis establishments will have paid application and initial licensure fees in the prior fiscal year; therefore, licenses for FY19-20 were paid for in FY18-19. This collection pattern is assumed to remain constant into perpetuity.
- In FY18-19, total MCE application fees of \$33,750 (135 x \$250), and licensure fee revenue of \$135,000 (135 x \$1,000).
- In FY19-20, total MCE application fees of \$17,500 (70 x \$250), and initial and renewal licensure fee revenue of \$205,000 (205 x \$1,000).
- In FY20-21, total MCE application fees of \$17,500 (70 x \$250), and initial and renewal licensure fee revenue of \$275,000 (275 x \$1,000).
- In FY21-22 and subsequent years, total MCE application fees of \$2,500 (10 x \$250), and initial and renewal fee revenue of \$285,000 (285 x \$1,000).
- The number of applications and total licenses per year is assumed to stay constant into perpetuity.

(b) MCE Agents, MCE Volunteers, Wholesalers, and Qualified Pharmacists

- One-time application fee of \$20 and initial and annual renewal fee of \$50.
- The number of wholesalers and qualified pharmacists that will become licensed is unknown.
- It is reasonably assumed that there will be approximately 1 wholesaler and 1 qualified pharmacists per every 20 licensed MCEs. The following provides the estimated number of registered wholesalers and qualified pharmacists per FY:
 - In FY18-19: 14 wholesalers/pharmacists [(135 / 20) x 2 (1 wholesaler and 1 pharmacist)];
 - In FY19-20: 21 wholesalers/pharmacists [(205 / 20) x 2 (1 wholesaler and 1 pharmacist)];
 - In FY20-21: 28 wholesalers/pharmacists [(275 / 20) x 2 (1 wholesaler and 1 pharmacist)];
 - In FY21-22: 29 wholesalers/pharmacists [(285 / 20) x 2 (1 wholesaler and 1 pharmacist)].

- It is further assumed that there will be approximately five agents or volunteers per every licensed MCE.
- In FY18-19, application fees of \$13,780 $[(135 \times 5 \text{ agents/volunteers} \times \$20) + (14 \text{ wholesalers/pharmacists} \times \$20)]$ and licensure fee revenue of \$34,450 $[(135 \text{ MCEs} \times 5 \text{ agents/volunteers} \times \$50) + (14 \text{ wholesalers/pharmacists} \times \$50)]$.
- In FY19-20, application fees of \$7,140 $[(70 \times 5 \text{ agents/volunteers} \times \$20) + (7 \text{ wholesalers/pharmacists} \times \$20)]$ and licensure fee revenue of \$52,300 $[(205 \text{ MCEs} \times 5 \text{ agents/volunteers} \times \$50) + (21 \text{ wholesalers/pharmacists} \times \$50)]$.
- In FY20-21, application fees of \$7,140 $[(70 \times 5 \text{ agents/volunteers} \times \$20) + (7 \text{ wholesalers/pharmacists} \times \$20)]$ and licensure fee revenue of \$70,150 $[(275 \text{ MCEs} \times 5 \text{ agents/volunteers} \times \$50) + (28 \text{ wholesalers/pharmacists} \times \$50)]$.
- In FY21-22, application fees of \$1,020 $[(10 \times 5 \text{ agents/volunteers} \times \$20) + (1 \text{ wholesaler/pharmacist} \times \$20)]$ and licensure fee revenue of \$72,700 $[(285 \text{ MCEs} \times 5 \text{ agents/volunteers} \times \$50) + (29 \text{ wholesalers/pharmacists} \times \$50)]$.
- In FY22-23 and subsequent years, it estimated that there will be 1 new wholesaler or pharmacist licensed and 20 new agents/volunteers licensed; therefore, application fees of \$420 $[(20 \text{ agents/volunteers} \times \$20) + (1 \text{ wholesaler/pharmacist} \times \$20)]$ and licensure fee revenue of \$73,750 $[(1,445 \text{ agents/volunteers} \times \$50) + (30 \text{ wholesalers/pharmacists} \times \$50)]$.

Total Application and Licensure Fee Revenue – (a) MCEs + (b) MCE Agents, MCE Volunteers, Wholesalers, and Qualified Pharmacists

- In FY18-19, total application and licensure fee revenue of \$216,980 $(\$33,750 + \$135,000 + \$13,780 + \$34,450)$.
- In FY19-20, total application and licensure fee revenue of \$281,940 $(\$17,500 + \$205,000 + \$7,140 + \$52,300)$.
- In FY20-21, total application and licensure fee revenue of \$369,790 $(\$17,500 + \$275,000 + \$7,140 + \$70,150)$.
- In FY21-22, total application and licensure fee revenue of \$361,220 $(\$2,500 + \$285,000 + \$1,020 + \$72,700)$.
- In FY22-23 and subsequent years, total application and licensure fee revenue of \$361,670 $(\$2,500 + \$285,000 + \$420 + \$73,750)$.
- Fee revenue in aggregate shall not exceed all costs incurred by Commission in administering the state's medical cannabis program by no more than 20 percent; however, additional funds may be appropriated to the Commission during the first year of its operation to assist with initial expenses.
- Pursuant to Tenn. Code Ann. § 68-7-407 of the Act, all fees shall be paid into the General Fund and credited to a separate account for the Commission.
- Pursuant to Tenn. Code Ann. § 68-7-108 of the Act, the Commission shall review the fee schedule and its administrative costs every two years and reschedule fees as necessary to ensure the Commission is self-supporting.

B) Business Charters

- All MCEs will be required to file a business charter with the Secretary of State's Office.

- The business charter fee is one-time at \$100. The resulting increase in state revenue is estimated to be \$13,500 (135 x \$100) in FY18-19; \$7,000 (70 x \$100) in each FY19-20 and FY20-21; and \$1,000 (10 x \$100) in FY21-22 and subsequent years.
- Revenue from charter fees is allocated 97 percent to the General Fund, and 3 percent to the Secretary of State's Office. The increase in revenue to the General Fund is estimated to be \$13,095 in FY18-19 (\$13,500 x 97%); \$6,790 in each FY19-20 and FY20-21 (\$7,000 x 97%); and \$970 in FY21-22 and subsequent years (\$1,000 x 97%). The increase in revenue to the Secretary of State's Office is estimated to be \$405 in FY18-19 (\$13,500 x 3%); \$210 in each FY19-20 and FY20-21 (\$7,000 x 3%); and \$30 in FY21-22 and subsequent years (\$1,000 x 3%).

C) Background Checks

- Pursuant to Tenn. Code Ann. § 68-7-103(c) of the Act, each application for a medical cannabis establishment must include a complete set of fingerprints from each person who is proposed to be an owner, officer, board member, MCE agent or volunteer of the proposed medical cannabis establishments, for the conduct of a criminal history record check by the TBI. If no disqualifying record is identified, TBI will send the fingerprints to the Federal Bureau of Investigation (FBI) for a criminal history records check. Anyone who has previously submitted fingerprints and received approval does not need to resubmit fingerprints, as they will be kept on file with the TBI
- The TBI charges a fee of \$32.65 to collect one sample of fingerprints and perform one criminal background check.
- Of the \$32.65, \$12.00 is forwarded to the FBI to run a check, \$8.65 is forwarded to the vendor that collects the fingerprints, and \$12.00 is retained by the TBI to run a check through their system.
- The number of owners and operators applicable to each registered organization is unknown. It is assumed that, on average, there will be 1 owner and 2 managers, 3 board members, 5 MCE agents or volunteers, or 11 total individuals per registered organization which will be required to submit to fingerprint testing and criminal background checks.
- In FY18-19, TBI will realize \$48,485 (135 x 11 x \$32.65) in revenue and expenditures of \$30,665 [135 x 11 x (\$12 + \$8.65)].
- In FY19-20, TBI will realize \$25,141 (70 x 11 x \$32.65) in revenue and expenditures of \$15,901 [70 x 11 x (\$12 + \$8.65)].
- In FY20-21, TBI will realize \$25,141 (70 x 11 x \$32.65) in revenue and expenditures of \$15,901 [70 x 11 x (\$12 + \$8.65)].
- In FY21-22, TBI will realize \$3,592 (10 x 11 x \$32.65) in revenue and expenditures of \$2,272 [10 x 11 x (\$12 + \$8.65)].
- In FY22-23 and subsequent years, it is assumed that TBI will need to perform at least 50 additional background checks on new operators, managers, MCE agents, and volunteers of the 285 MCEs; therefore, TBI will realize \$1,633 (50 x \$32.65) in revenue and expenditures of \$1,033 [50 x (\$12 + \$8.65)].

D) Qualifying patients and Nonresident Cardholders:

- In determining the amount of individuals who will participate in this program, the DOH was contacted to determine the number of individuals who will qualify for a registry identification card due to having a debilitating medical condition, as defined in the Act.
- Based on information provided by the DOH, at least 1.2 million individuals residing in Tennessee have a debilitating medical condition would entitle such qualifying patients to seek a registry identification card.
- Pursuant to Tenn. Code Ann. § 68-7-199 of the Act, Tennessee will grant reciprocity to nonresident cardholders who have a valid, functional equivalent to the registry identification card established by this Act.
- The number of non-resident nonresident cardholders that will, on average, be in Tennessee at any given time is estimated to be low, as states surrounding Tennessee generally do not have medical marijuana programs at this current time.
- It is assumed that approximately 0.5 percent of the total estimated population of Tennesseans with debilitating medical conditions, or 6,000 individuals ($1,200,000 \times 0.5\%$) will be eligible non-resident cardholders and purchase medical marijuana legally in Tennessee.
- In total, approximately 1,206,000 individuals will be eligible to purchase cannabis in Tennessee ($1,200,000 + 6,000$).
- After Colorado passed Amendment 20 in 2000, those with certain qualifying medical conditions were able, beginning July 1, 2001, to possess up to 2 ounces of a usable form of marijuana and cultivate not more than 6 marijuana plants.
- In October 2009, federal resources to prosecute medical marijuana patients and caregivers who were in “clear and unambiguous” compliance with state law were decreased effectively leading to a drastic increase in the number of dispensaries in the state, and thus, the number of registrants also increased drastically.
- The following shows the number of registrants (2009-2013) in Colorado as of January 31 of each year:
 - 2009: 5,051
 - 2010: 53,038
 - 2011: 118,895
 - 2012: 85,124
 - 2013: 108,056
- Due to this legislation’s immediate adoption of regulated MCEs, the following figures estimate the number of individuals per fiscal year who either hold registry identification cards or be nonresident cardholders and thus, be eligible to purchase medical cannabis in Tennessee:
 - FY19-20: 60,300 individuals ($1,206,000 \times 5\%$);
 - FY20-21: 90,450 individuals ($1,206,000 \times 7.5\%$); and
 - FY21-22 and subsequent years: 120,600 individuals ($1,206,000 \times 10\%$).
- According to the Colorado Department of Revenue, retail sales of medical cannabis at the close of FY12-13 (12th program year), totaled \$328,646,922.
- As of June 30, 2013 (12th Program year), the registry contained approximately 106,817 users possessing valid Registry ID cards.

- The annual revenue realized per average ID holder was \$3,077 ($\$328,646,922 / 106,817$ ID holders).

E) Revenue

FY19-20 Tax Revenue:

- Retail sales of medical cannabis in FY19-20 will be \$185,543,100 ($60,300 \times \$3,077$).
- It is assumed that companies within the industry pay taxes on average net profit of 15 percent. The net profit on which excise tax would be paid is \$27,831,465 ($\$185,543,100 \times 15\%$). The state excise tax rate is 6.5 percent, so the increase in state revenue attributable to excise tax collections will be \$1,809,045 ($\$27,831,465 \times 6.5\%$).
- Net worth of these companies is estimated to be equivalent to annual sales ($\$185,543,100$). The franchise tax rate is 0.25 percent per \$100 of value, so the increase in state revenue attributable to franchise tax collections will be \$4,639 [$(\$185,543,100 / \$100) \times 0.25\%$].
- This legislation establishes a 5 percent state sales tax and 2 percent local sales tax on sales of medical cannabis.
- State sales tax revenue in FY19-20 of \$9,277,155 ($\$185,543,100 \times 5\%$).
- Distribution of proceeds from the state sales tax shall be distributed as follows:
 - \$927,716 ($\$9,277,155 \times 10\%$) to the TBI;
 - \$463,858 ($\$9,277,155 \times 5\%$) to sheriffs' offices;
 - \$463,858 ($\$9,277,155 \times 5\%$) to police departments;
 - \$1,391,573 ($\$9,277,155 \times 15\%$) to the DIDD;
 - \$1,855,431 ($\$9,277,155 \times 20\%$) to the DMHSAS;
 - \$1,855,431 ($\$9,277,155 \times 20\%$) to the DOE for kindergarten through grade twelve (K-12) education purposes;
 - \$1,391,573 ($\$9,277,155 \times 15\%$) to the office of criminal justice programs account in the General Fund, pursuant to Tenn. Code Ann. § 16-22-109(e)(4), established for the exclusive use of the DMHSAS to assist existing veterans treatment court programs and to create and establish additional veterans treatment court programs; and
 - \$927,716 ($\$9,277,155 \times 10\%$) to the drug treatment court program resources fund to be administered by the DMHSAS, in accordance with Tenn. Code Ann. § 16-22-110, to support drug court treatment programs.
- Local Sales tax revenue in FY19-20 of \$3,710,860 ($\$185,543,100 \times 2\%$).

FY20-21 Tax Revenue:

- Retail sales of medical cannabis in FY18-19 will be \$278,316,650 ($90,450 \times \$3,077$).
- It is assumed that companies within the industry pay taxes on average net profit of 15 percent; the net profit on which excise tax would be paid is \$41,747,197 ($\$278,316,650 \times 15\%$). The state excise tax rate is 6.5 percent, so the increase in state revenue attributable to excise tax collections will be \$2,713,568 ($\$41,747,197 \times 6.5\%$).
- Net worth of these companies is estimated to be equivalent to annual sales ($\$278,316,650$). The franchise tax rate is 0.25 percent per \$100 of value, so the increase in state revenue attributable to franchise tax collections will be \$6,958 [$(\$278,316,650 / \$100) \times 0.25\%$].

- This legislation establishes a 5 percent state sales tax and 2 percent local sales tax on sales of medical cannabis.
- State sales tax revenue in FY19-20 of \$13,915,833 (\$278,316,650 x 5%).
- Distribution of proceeds from the state sales tax shall be distributed as follows:
 - \$1,391,583 (\$13,915,833 x 10%) to the TBI;
 - \$695,792 (\$13,915,833 x 5%) to sheriffs' offices;
 - \$695,792 (\$13,915,833 x 5%) to police departments;
 - \$2,087,375 (\$13,915,833 x 15%) to the DIDD;
 - \$2,783,167 (\$13,915,833 x 20%) to the DMHSAS;
 - \$2,783,167 (\$13,915,833 x 20%) to the DOE for kindergarten through grade twelve (K-12) education purposes;
 - \$2,087,375 (\$13,915,833 x 15%) to the office of criminal justice programs account in the General Fund, pursuant to Tenn. Code Ann. § 16-22-109(e)(4), established for the exclusive use of the DMHSAS to assist existing veterans treatment court programs and to create and establish additional veterans treatment court programs; and
 - \$1,391,583 (\$13,915,833 x 10%) to the drug treatment court program resources fund to be administered by the DMHSAS, in accordance with Tenn. Code Ann. § 16-22-110, to support drug court treatment programs.
- Local Sales tax revenue in FY20-21 of \$5,566,333 (\$278,316,650 x 2%).

FY21-22 and Subsequent Years Tax Revenue:

- Retail sales of medical cannabis in FY21-22 and subsequent years will exceed \$371,086,200 (120,600 x \$3,077).
- It is assumed that companies within the industry pay taxes on average net profit of 15 percent; the net profit on which excise tax would be paid is \$55,662,930 (\$371,086,200 x 15%). The state excise tax rate is 6.5 percent, so the increase in state revenue attributable to excise tax collections will exceed \$3,618,090 (\$55,662,930 x 6.5%).
- Net worth of these companies is estimated to be equivalent to annual sales (\$371,086,200). The franchise tax rate is 0.25 percent per \$100 of value, so the increase in state revenue attributable to franchise tax collections will exceed \$9,277 [(\$371,086,200 / \$100) x 0.25%].
- This legislation establishes a 5 percent state sales tax and 2 percent local sales tax on sales of medical cannabis.
- State sales tax revenue in FY19-20 of \$18,554,310 (\$371,086,200 x 5%).
- Distribution of proceeds from the state sales tax shall be distributed as follows:
 - \$1,855,431 (\$18,554,310 x 10%) to the TBI;
 - \$927,716 (\$18,554,310 x 5%) to sheriffs' offices;
 - \$927,716 (\$18,554,310 x 5%) to police departments;
 - \$2,783,147 (\$18,554,310 x 15%) to the DIDD;
 - \$3,710,862 (\$18,554,310 x 20%) to the DMHSAS;
 - \$3,710,862 (\$18,554,310 x 20%) to the DOE for kindergarten through grade twelve (K-12) education purposes;
 - \$2,783,147 (\$18,554,310 x 15%) to the office of criminal justice programs account in the General Fund, pursuant to Tenn. Code Ann. § 16-22-109(e)(4), established for the exclusive use of the DMHSAS to assist existing veterans

- treatment court programs and to create and establish additional veterans treatment court programs; and
 - \$1,855,431 (\$18,554,310 x 10%) to the drug treatment court program resources fund to be administered by the DMHSAS, in accordance with Tenn. Code Ann. § 16-22-110, to support drug court treatment programs.
- Local Sales tax revenue in FY19-20 of \$7,421,724 (\$371,086,200 x 2%).

F) Expenditures:

Department of Revenue (DOR)

- According to the DOR, passage of the Act will require one additional Tax Auditor 3 position to audit tax returns submitted from MCEs.
- It is assumed that this new will be filled on July 1, 2019.
- An increase in state expenditures in FY19-20 of \$74,780 [\$71,980 recurring (salary \$55,000 + benefits \$12,172 + FICA \$4,208 + supplies \$600) + a one-time increase in state expenditures of \$2,800 (computer-related costs \$1,200 + office furniture \$1,600)].
- An increase in state expenditures in FY20-21 and subsequent years of \$71,980.

Medical Cannabis Commission

- The Act establishes a 9-member Commission.
- Each member of the Commission will receive \$6,000 per year and is authorized to be reimbursed for any necessary and expenses, including travel.
- The Commission will meet monthly.
- Meetings will be held over two days.
- The members of the Medical Cannabis Advisory Committee will be reimbursed for travel (\$100), meals (\$66) and lodging (\$122).
- It is estimated that all nine members will seek reimbursement for necessary expenses, resulting in an increase in state expenditures of \$85,104 [(9 members x 12 meeting x (\$100 + \$66 + \$122) + (\$6,000 annual salary x 9 members)].
- The Act requires the Commission to appoint a director and authorizes the Commission to employ an assistant director, a chief law enforcement officer, and is further authorized, upon consent of the governor, to employ attorneys, inspectors, agents, officers, and clerical assistance as may be necessary.
- It is assumed that the Commission will hire one program director, one chief law enforcement office, and one accountant 3 position.
- It is assumed that the program director will earn a salary of \$72,000; the chief law enforcement officer will earn a salary of \$60,000; and an accountant 3 position will earn a salary of \$60,000.
- An increase in recurring state expenditures of \$250,818 (salaries \$192,000 + benefits \$38,930 + FICA \$14,688 + supplies \$1,800 + vehicle lease and maintenance \$3,400) and one-time expenditures of \$8,400 (computer-related expenses \$4,800 + office furniture \$3,600)
- It is assumed that new positions created within the Commission will be filled around January, 2019, in order to effectively process applications and aid MCEs in following Commission rules and regulations prior to the beginning of recreational sales on July 1, 2019.

- An increase in state expenditures in FY18-19 of \$168,000 [(\$85,104 x 50.0% for ½ year impact) + (\$250,818 x 50.0% for ½ year impact)].
- An increase in state expenditures in FY19-20 and subsequent years of \$335,922 (\$85,104 + \$250,818).

Board of Pharmacy:

- There will also be a one-time increase in expenditures of \$5,000 for modifications to the controlled substance monitoring database.
- The Board of Pharmacy will be responsible for ensuring prescribers and dispensers report the dispensing of cannabis to be included in the controlled substance monitoring database and to manage licensure of the new dispensaries licensed for the program and to ensure compliance with the provisions of the program. The Board will hire a pharmacist to assist with the additional responsibilities of the Board. The position will result in an increase in recurring expenditures of \$129,875, which includes salary (\$95,652), benefits (\$15,806), FICA (\$7,317), communications and networking (\$1,400), office lease (\$4,100), travel (\$5,000), and supplies (\$600). There will be an increase in one-time expenditures of \$4,300, which includes computers (\$1,600) and office furniture (\$2,700).
- It is assumed that this new position will be filled around January, 2019.
- An increase in state expenditures in FY18-19 of \$74,238 [\$5,000 + (\$129,875 x 50.0% for ½ year impact) + \$4,300].
- An increase in state expenditures in FY19-20 and subsequent years of \$129,875.
- Pursuant to Tenn. Code Ann. § 4-3-1011, all health-related boards are required to be self-supporting over a two-year period. The Board of Pharmacy had an annual surplus of \$885,058 in FY15-16, an annual surplus of \$620,117 in FY16-17, and a cumulative reserve balance of \$2,601,038 on June 30, 2017.

G) Impact on Incarceration/State and Local Court Costs

- Under current law, one commits a Class E felony for possessing with intent to sell cannabis in an amount between one-half ounce and 10 pounds. The draft bill would allow possession of cannabis in an amount between one-half ounce and one ounce. The draft bill will result in fewer Class E felony admissions for possession with intent for amounts of cannabis between one-half ounce and one ounce.
- For purposes of the Act, Tenn. Code Ann. § 68-7-102 defines the amount of cannabis product that may actually be possessed by or for a qualifying patient as twice the allowable amount that a licensed dispensary is allowed to dispense. For purposes of assumption, it is assumed that this amount will equal approximately one ounce of marijuana or an equivalent marijuana product.
- Statistics from the Department of Correction (DOC) show a 10-year average of 258.3 admissions per year for manufacturing, delivering, selling, or possessing with intent to sell cannabis between one-half ounce and one ounce.
- It is assumed that most offenders actually being imprisoned for possession with intent to sell or selling cannabis possessed a substantial amount of cannabis, which likely exceeded one ounce. It is assumed that the draft bill will reduce these admissions by 25 percent (258.3 admissions x 0.25 = 65 admissions).

- Data from the DOC shows the average time served for manufacturing, delivering, selling, or possessing with intent to sell cannabis between one-half ounce and ten pounds is 1.46 years (533.27 days).
- According to DOC, the average operating cost per offender per day for calendar year 2018 is \$71.08.
- The draft bill will decrease state incarceration costs by \$2,463,814 (65 admissions x 533.27 days x \$71.08).
- A decrease in the number of misdemeanor cases for multiple cannabis offenses listed under Tenn. Code Ann. Title 39, Chapter 17, will result in a decrease in state and local court costs. It is assumed that any such decrease will have a nominal impact on employment within such courts. Any decrease in court costs is estimated to be offset by a reduction in fee revenue received from individuals convicted and required to pay court costs and other necessary fees.

H) Total Impacts to the General Fund, the Medical Cannabis Commission, the Secretary of State's Office, the TBI, the Office of Criminal Justice Programs, Drug Court Treatment Programs, the Department of Intellectual and Developmental Disabilities, the Department of Mental Health and Substance Abuse Services, the Department of Education, the Board of Pharmacy, Incarceration, and local government.

General Fund

- An increase in state revenue in FY18-19 of \$13,095.
- An increase in state revenue in FY19-20 of \$1,820,474 (\$6,790 + \$1,809,045 + \$4,639).
- An increase in state expenditures in FY19-20 of \$74,780.
- An increase in state revenue in FY20-21 of \$2,727,316 (\$6,790 + \$2,713,568 + \$6,958).
- An increase in state expenditures in FY20-21 and subsequent years of \$71,980.
- An increase in state revenue in FY21-22 and subsequent years of \$3,628,337 (\$970 + \$3,618,090 + \$9,277).

Medical Cannabis Commission

- An increase in state revenue in FY18-19 of \$216,980.
- An increase in state expenditures in FY18-19 of \$168,000.
- An increase in state revenue in FY19-20 of \$281,940.
- An increase in state expenditures in FY19-20 and subsequent years of \$335,922.
- An increase in state revenue in FY20-21 of \$369,790.
- An increase in state revenue in FY21-22 of \$361,220.
- An increase in state revenue in FY22-23 and subsequent years of \$361,670.

Secretary of State's Office

- An increase in state revenue in FY18-19 of \$405.
- An increase in state revenue in FY19-20 of \$210.
- An increase in state revenue in FY20-21 of \$210.
- An increase in state revenue in FY21-22 and subsequent years of \$30.

TBI

- An increase in state revenue in FY18-19 of \$48,485.
- An increase in state expenditures in FY18-19 of \$30,665.
- An increase in state revenue in FY19-20 of \$952,857 (\$25,141 + \$927,716).
- An increase in state expenditures in FY19-20 of \$15,901.
- An increase in state revenue in FY20-21 of \$1,416,724 (\$25,141 + \$1,391,583).
- An increase in state expenditures in FY20-21 of \$15,901.
- An increase in state revenue in FY21-22 of \$1,859,023 (\$3,592 + \$1,855,431).
- An increase in state expenditures in FY21-22 of \$2,272.
- An increase in state revenue in FY22-23 and subsequent years of \$1,857,062 (\$1,633 + \$1,855,431).
- An increase in state expenditures in FY22-23 and subsequent years of \$1,033.

The Office of Criminal Justice Programs

- An increase in state revenue in FY19-20 of \$1,391,573.
- An increase in state revenue in FY20-21 of \$2,087,375.
- An increase in state revenue in FY21-22 and subsequent years of \$2,783,147.

Drug Court Treatment Programs

- An increase in state revenue in FY19-20 of \$927,716.
- An increase in state revenue in FY20-21 of \$1,391,583.
- An increase in state revenue in FY21-22 and subsequent years of \$1,855,431.

The Department of Intellectual and Developmental Disabilities

- An increase in state revenue in FY19-20 of \$1,391,573.
- An increase in state revenue in FY20-21 of \$2,087,375.
- An increase in state revenue in FY21-22 and subsequent years of \$2,783,147.

The Department of Mental Health and Substance Abuse Services

- An increase in state revenue in FY19-20 of \$1,855,431.
- An increase in state revenue in FY20-21 of \$2,783,167.
- An increase in state revenue in FY21-22 and subsequent years of \$3,710,862.

The Department of Education

- An increase in state revenue in FY19-20 of \$1,855,431.
- An increase in state revenue in FY20-21 of \$2,783,167.
- An increase in state revenue in FY21-22 and subsequent years of \$3,710,862.

The Board of Pharmacy

- An increase in state expenditures in FY18-19 of \$74,238.
- An increase in state expenditures in FY20-21 and subsequent years of \$129,875.

Incarceration

- A decrease in state expenditures of \$2,463,814.

Local Government

- An increase in local revenue in FY19-20 of \$4,638,576 (\$3,710,860 + \$463,858 + \$463,858).
- An increase in local revenue in FY20-21 of \$6,957,917 (\$5,566,333 + \$695,792 + \$695,792).
- An increase in local revenue in FY21-22 and subsequent years of \$9,277,156 (\$7,421,724 + \$927,716 + \$927,716).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director